

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 511

Introduced by Senator Figueroa

February 20, 2003

An act to add Article 10.3 (commencing with Section 25214.9) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 511, as amended, Figueroa. Mercury lamp recycling.

(1) Existing law prohibits the management of hazardous waste, except in accordance with the hazardous waste laws. Under existing law, the Department of Toxic Substances Control (*department*) is authorized to exempt, until January 1, 2003, by regulation, a hazardous waste management activity from the requirements of the hazardous waste control law if the regulation governs a specified type of hazardous waste, including hazardous waste lamps, identifies the hazardous waste as a universal waste, and amends specified existing regulations of the department. A violation of the hazardous waste ~~controls~~ *control* laws is a crime.

This bill would enact the California Mercury Lamp Recycling Act of 2004 and would require every manufacturer of a mercury-containing fluorescent lamp sold in the state to submit a plan, by June 30, 2004, to the department that ensures, by January 1, 2006, that all mercury-containing *fluorescent* lamps sold by that manufacturer will be collected, transported, and recycled in accordance with all applicable state laws *or are disposed at a hazardous waste facility issued a hazardous waste facilities permit by the department*. The bill would require the manufacturer to pay a fee set by the department to pay the

costs of reviewing the plan and would require the fees to be deposited in the Hazardous Waste Control Account for expenditure by the department, upon appropriation by the Legislature, for conducting that review. The bill would require the department to approve a plan if it contains specified elements, including requiring that, on and after *January 1, 2005*, 50% of the mercury-containing fluorescent lamps sold by that manufacturer *in this state* are recycled or are disposed of ~~as at~~ *a hazardous waste facility*. The bill would require the department to review all plans submitted and would require a manufacturer, by July 1, 2004, to implement the collection and recycling ~~systems~~ *system* developed in the approved plan, *as specified*.

The bill would prohibit a manufacturer or wholesaler from selling to a retail seller in this state, or for use by a consumer in this state, a lamp manufactured after November 30, 2003, that contains mercury that was added during the manufacture of that lamp, unless the lamp meets specified requirements regarding the labeling and packaging of that lamp. The bill would also prohibit a retail seller from knowingly selling to a consumer in this state such a lamp, unless the lamp is so labeled and packaged. The bill would require the manufacturer to affix the label but if the label is not affixed in accordance with this requirement, the bill would require the wholesaler or retail seller to affix the label before selling the lamp.

The bill would prohibit any person from transporting mercury-containing lamp waste out of the state, unless the waste is transported to a mercury recycling facility issued a permit pursuant to the federal Resource Conservation and Recovery Act of 1976 (RCRA).

Since a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. Article 10.3 (commencing with Section 25214.9) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 10.3. California Mercury Lamp Recycling Act of 2004
25214.9. The Legislature finds and declares all of the following:

(a) Mercury is a persistent and toxic pollutant that bioaccumulates in the environment and in the food chain.

(b) Due to the bioaccumulation of mercury and other contaminants in fish, the California Environmental Protection Agency has issued a warning advising that adults, and women who are pregnant or who may become pregnant, should limit their fish intake from several state waterways.

(c) At present, all fluorescent lamps contain mercury. The California Environmental Protection Agency classifies mercury-containing fluorescent lamps as hazardous waste when discarded.

(d) Commencing January 1, 2006, regulations adopted pursuant to this chapter prohibit the disposal of mercury-containing fluorescent lamps in solid waste landfills.

25214.10. (a) For purposes of this ~~section~~ article, the following definitions apply:

(1) “Mercury-containing lamp waste” means the bulb or tube portion of an electric lighting device that is used in a fluorescent or high intensity lighting device, and that is no longer fit for its intended use as a lamp or is discarded.

(2) “Plan” means a plan submitted to the department pursuant to Section 25214.11 to establish a system for the collection, transportation, and recycling of mercury-containing fluorescent lamps.

(3) “Retail seller” means a person who sells, or offers for sale, mercury-containing fluorescent lamps in a retail sale, as defined in Section 6007 of the Revenue and Taxation Code.

(b) This article shall be known, and may be cited, as the California Mercury Lamp Recycling Act of 2004.

1 25214.11. (a) On or before June 30, 2004, every
2 manufacturer of a mercury-containing fluorescent lamp sold in the
3 state shall submit a plan to the department that ensures, by January
4 1, 2006, that all mercury-containing *fluorescent* lamps sold by that
5 manufacturer in this state are collected, transported, and recycled
6 in accordance with all applicable state laws *or are disposed of at*
7 *a hazardous waste facility issued a hazardous waste facilities*
8 *permit by the department pursuant to Section 25200. The plan*
9 *shall include that on or after January 1, 2005, that 50 percent of*
10 *the mercury-containing fluorescent lamps sold in this state by the*
11 *manufacturer are recycled or are disposed of at a hazardous waste*
12 *facility. The manufacturer shall pay a fee set by the department to*
13 *pay the costs of reviewing and approving the plan, which shall be*
14 *deposited in the Hazardous Waste Control Account and may be*
15 *expended by the department, upon appropriation by the*
16 *Legislature, for conducting that review. The department shall*
17 *approve a plan if the plan contains all of the following elements:*
18 (1) The plan identifies either an existing or new collection
19 system through which the used lamps can be returned for recycling
20 or disposed of as hazardous waste. *The plan describes how the*
21 *manufacturer will use the existing infrastructure for recycling*
22 *mercury-containing fluorescent lamps.*
23 (2) The plan identifies a funding mechanism through which the
24 manufacturer will fund the collection system and provides that the
25 manufacturer is responsible for paying all costs to implement the
26 system with regard to all of mercury-containing lamps sold by that
27 manufacturer in the state.
28 (3) The plan provides that all collection and recycling under the
29 collection system is conducted in a manner that prevents the
30 release of mercury into the environment.
31 (4) The plan describes the manufacturer's efforts to reduce and
32 eventually eliminate the amount of mercury in its fluorescent
33 lamps.
34 (5) The collection system identified in the plan includes all of
35 the following:
36 (A) A public education program to inform the public about the
37 purpose of the collection program and how to participate in the
38 collection system.
39 (B) A plan for implementing and financing the collection
40 system.

1 (C) Documentation of the ~~willingness~~ *commitment* of all
2 necessary parties to implement the proposed collection system.

3 (D) A description of performance measures to be utilized and
4 reported by the manufacturer to demonstrate that the collection
5 system is effective.

6 (E) A description of additional or alternative actions that will
7 be implemented to improve the collection system and its operation
8 if the collection system is not effective.

9 ~~(6) The plan requires, on and after January 1, 2005, that 50~~
10 ~~percent of the mercury-containing fluorescent lamps sold by that~~
11 ~~manufacturer in this state are recycled or are disposed of as~~
12 ~~hazardous waste.~~

13 ~~(7)~~

14 (6) If the manufacturer manufactures a lamp required to be
15 labeled pursuant to Section 25214.12, the plan requires the
16 implementation of a public education campaign in the state to
17 educate consumers on the meaning of the label and how to
18 properly dispose of lamps that are labeled.

19 (b) The department shall review all plans submitted pursuant to
20 subdivision (a) and may require changes in the plan before
21 approving the plan as suitable for implementation.

22 (c) On or before July 1, 2004, a manufacturer shall implement
23 the collection and recycling system developed in a plan ~~approved~~
24 ~~by the department pursuant to subdivision (b).~~ *submitted to the*
25 *department pursuant to subdivision (a).* A manufacturer shall
26 *begin implementation of its submitted plan immediately after*
27 *submittal, during the time that the department is reviewing the*
28 *plan. After its plan is approved by the department pursuant to*
29 *subdivision (b), the manufacturer shall implement the collection*
30 *and recycling system developed in the approved plan.*

31 25214.12. (a) (1) A manufacturer or wholesaler may not sell
32 to a retail seller in this state, or for use by a consumer in this state,
33 a lamp manufactured after November 30, 2003, that contains
34 mercury that was added during the manufacture of that lamp,
35 unless the lamp is labeled and packaged in accordance with
36 subdivision (b).

37 (2) A retail seller may not knowingly sell to a consumer in this
38 state a lamp manufactured after November 30, 2003, that contains
39 mercury that was added during the manufacture of that lamp,

1 unless the lamp is labeled and packaged in accordance with
2 subdivision (b).

3 (b) A lamp subject to subdivision (a) shall comply with both of
4 the following conditions:

5 (1) A label shall be affixed on the lamp that meets all of the
6 following requirements:

7 (A) The label clearly informs the purchaser or consumer that
8 mercury is present in the item and that the item may not be
9 disposed of or placed in a waste stream destined for disposal until
10 the mercury is removed and reused, recycled, or otherwise
11 managed to ensure that it does not become part of solid waste or
12 wastewater.

13 (B) The label is durable and is expected to last the life of the
14 product.

15 (C) The label contains the symbol “Hg” in no less than
16 ten-point font and in the same color as existing coloring on the
17 lamp.

18 (2) Any package containing the lamp shall be labeled with, and
19 any insert in the package containing the lamp shall include, the
20 phrase, in a minimum 10-point font, “Hg-LAMP CONTAINS
21 MERCURY, MANAGE IN ACCORD WITH DISPOSAL LAWS.
22 See www.lamprecycle.org or call 1-800-XXX-XXXX.”

23 (c) The manufacturer of a lamp subject to subdivision (a) shall
24 affix the label on the lamp that is required by paragraph (1) of
25 subdivision (b), but if the label is not affixed in accordance with
26 that requirement, the wholesaler or retail seller shall affix the label
27 before selling the lamp.

28 ~~25214.12.~~

29 ~~25214.13.~~ No person may transport mercury-containing lamp
30 waste out of the state, unless the waste is transported to a mercury
31 recycling facility issued a permit pursuant to the federal act.

32 SEC. 2. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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